

## EXHIBIT A

## IN THE UNITED STATES PATENT OFFICE

|   |   |                      |
|---|---|----------------------|
| In re reissue application of  | ) |                      |
| Bradford C. Webb  | ) | Reissue of           |
| Serial No. NYA  | ) | Patent No. 5,422,376 |
| Filed: Herewith   | ) | Issued: June 6, 1995 |
| For: Synthetic Viscoelastic Material<br>for Ophthalmic Applications | ) | Docket No. 1560B     |

INVENTOR'S DECLARATION, PETITION AND  
POWER OF ATTORNEY

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

I, Bradford C. Webb, declare that:

1. I am a citizen of the United States of America and reside at 2245 North Green Valley Parkway, Henderson, Nevada 89014. I believe that I am the original, first and sole inventor of the invention described and claimed in U.S. Letters Patent No. 5,422,376 (hereinafter called "Patent") and in the above-identified reissue application and for which Invention I, together with the assignee of record, Nestlé S.A., solicit a reissue patent. I do not know and do not believe that said invention was ever known or used in the United States of America before my invention thereof; I acknowledge my duty to disclose information of which I am aware which is material to the examination of this reissue application in accordance with 37 C.F.R. § 1.56; and I have reviewed and understand the contents of the specification, including the claims, as amended by any amendment specifically referred to herein.

2. I believe that the Patent is wholly or partially inoperative or invalid by reason of my claiming less than I had a right to claim in the Patent.

3. On information and belief, after issuance of the Patent and its assignment to Nestlé S.A. in July, 1996, a study of the file history of the Patent and relevant art was conducted on behalf of the assignee of the Patent. On information and belief, the study was undertaken after it was learned that certain individuals and/or companies had begun manufacturing in the United States hydroxypropylmethyl-cellulose products for ophthalmic use, which products purportedly possessed rheological properties similar to those of the patented compositions. As a result of this study, I now believe that the Patent contains error for failing to claim the invention as broadly as specifically set forth in amended claims 1, 13 and 25, and new claims 30-33 of this reissue application.

4. More specifically, on information and belief, during the study referred to in paragraph 3 hereof, it was discovered that the Patent contains error in that the known prior art did not require:

- a) that the claimed viscoelastic solutions be "free of particulate matter and gels greater than 0.5 $\mu$ m in diameter," or
- b) that the claimed processes include a 0.5 $\mu$ m filtration, a specific heating step (i.e. "to about 95°C"), a resuspension step, an autoclaving step and a degassing step.

5. Amended claims 1 and 25 address the error identified in paragraph 4(a) hereof, whereas amended claim 13 and new claims 30-33 address the error identified in paragraph 4(b) hereof.

6. I concur with the assignee's wish to amend the Patent to correct these errors.

7. The errors identified herein arose in the drafting of the claims as originally filed with the patent application without any deceptive intention on my part. The amendments effected by this reissue application do not result in any claim that is of the same or broader scope than any claim canceled during the prosecution of the original application; nor do they add any new matter. On information and belief, the Patent is not currently and has not in the past been the subject of litigation.

WHEREFORE, I pray that I may be allowed to surrender the Patent and that Letters Patent may be reissued for the same invention upon the above-identified specification. I hereby subscribe my name to this Declaration and Petition, and hereby appoint as my attorneys:

|                   |                         |
|-------------------|-------------------------|
| James A. Arno     | Registration No. 26,145 |
| Gregg C. Brown    | Registration No. 30,613 |
| Sally S. Yeager   | Registration No. 32,757 |
| Barry L. Copeland | Registration No. 34,801 |
| Jeffrey S. Schira | Registration No. 34,922 |
| Patrick M. Ryan   | Registration No. 36,263 |
| Michael C. Mayo   | Registration No. 38,545 |

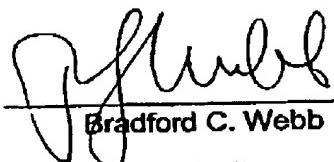
Please send all correspondence to:

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with full power of substitution and revocation, to transact all business in the Patent and Trademark Office connected with the above-identified application and to receive all correspondence from the Patent and Trademark Office regarding the above-identified application.

I, the undersigned, declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Executed this 15 day of August, 1997.



Bradford C. Webb

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